



2001-014-1019

Jon S. Hoak
Senior Vice President and General Counsel

July 6, 2001

General Services Administration
FAR Secretariat (MVR)
1800 F Street NW
Room 4035
Washington, D.C. 20005

Attn: Ms. Laurie Duarte

Reference: Far Case 2001-014

Dear Ms. Duarte:

NCR Corporation ("NCR") is pleased to submit its comments regarding the proposed reconsideration and revocation of the FAR rule on Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings (December 20, FAR Case 1999-010). NCR believes in high ethical performance standards. That said, we do not believe there has been any indication that contracting officers are doing business with companies that lack the necessary integrity to contract with the federal government. NCR strongly supports revocation of the December 20 rule. That rule is unwarranted and unworkable. The rule's changes are unnecessary because the protections proffered are already, more appropriately, covered elsewhere in statute and regulation. The rule requires contracting officers to make responsibility determinations on the basis of vague and ill-defined criteria that are outside their normal areas of expertise and training. And, the rule is a step backward from the previous six years of streamlining initiatives, which were aimed at making the procurement process function more effectively. The requirement for a certification is contrary to congressional direction in the 1996 Clinger-Cohen Act directing the Office of Federal Procurement Policy to eliminate all non-statutory certification requirements imposed on government contractors. It is contrary to the stated goals of the Bush Administration for the government to utilize greater commercial practices. It poses a tremendous burden on contractors to create and maintain a system to track their compliance with any and all laws -- federal, state, local and foreign -- simply to complete a "check in the box" certification at a given time. Last, the Rule is susceptible to abuse by those outside the government who might use it for their own purposes to harm a potential competitor or company.

In summary, the December 20 final rule should be withdrawn - it is a fundamentally flawed policy and cannot be fixed. Furthermore, it is an unnecessary encumbrance on the

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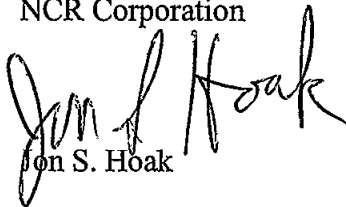
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acquisition process, and ignores the doctrine of fairness that is so fundamental to government procurement. It would place a burden on the contracting officer that is beyond that official's ability to implement in an equitable and coherent fashion. Finally, it would place an unfair burden on contractors, both large and small.

NCR appreciates the opportunity to respond to the reconsideration and proposed revocation of the December 20 Contractor Responsibility rule - and urges the FAR Council to repeal this unworkable rule. Should you have any questions regarding this matter, please contact Susan Warshaw Ebner, Chief Counsel, NCR Government Systems at (301) 212-5130.

Sincerely,

NCR Corporation


Jon S. Hoak